

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

ALTON O. CARTER,)	CASE NO. 1:18 CV 1181
)	
Plaintiff,)	JUDGE DAN AARON POLSTER
)	
vs.)	<u>OPINION AND ORDER</u>
)	
WARDEN SHELBIE SMITH,)	
)	
Defendant.)	

Before the Court is the Report and Recommendation (“R&R”) of Magistrate Judge Jonathan D. Greenberg. **Doc #: 15.** The Magistrate Judge recommends that the Court dismiss in part and deny in part the habeas petition filed by Petitioner Alton O. Carter under 28 U.S.C. § 2254. **Doc #: 1.** In May 2016, a jury convicted Carter of misdemeanor assault and kidnapping of a former girlfriend. The trial court sentenced Carter to six years on the kidnapping conviction, to be served concurrently to a six-month sentence on the assault conviction, and Carter was labelled a Tier II sex offender. Carter now challenges his kidnapping conviction based on insufficient evidence, and he asserts ineffective assistance of trial counsel.

Under the relevant statute:

Within fourteen days after being served with a copy [of a magistrate judge’s R&R], any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1) (emphasis added).

In this case, the R&R was issued on March 16, 2020 and it is now May 1, 2020. Forty-six days have elapsed since the R&R was issued, and Petitioner has neither filed objections nor a request for an extension of time to file them. The failure to timely file written objections to an R&R constitutes a waiver of a *de novo* review by the district court of any issues covered in the R&R. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

Despite the lack of objections, the Court has reviewed Magistrate Judge Greenberg's thorough, well-written 34-page R&R, and agrees with the Magistrate Judge's findings and recommended rulings. Therefore, the Court **ADOPTS** the R&R in its entirety, **Doc #: 18**, and denies in part and dismisses in part the § 2254 habeas petition, **Doc #: 1**.

IT IS SO ORDERED.

/s/ Dan A. Polster May 1, 2020
Dan Aaron Polster
United States District Judge